

Ordinance No. 291

AN ORDINANCE CREATING THE MAGEE PRESERVATION COMMISSION FOR THE CITY OF MAGEE, MISSISSIPPI.

BE IT ORDAINED by the Mayor and the Board of Aldermen of the city of Magee, Mississippi, as follows:

Section 1 – Statement of Purpose:

That the Mayor and Board of Aldermen of the City of Magee, Mississippi, find that it is in the best interest of the citizens of Magee, Mississippi, to establish and institute the Magee Preservation Commission for the identification, designation, and preservation of historic buildings, structures, places, events, and stories/oral histories.

By virtue of Miss. Code Ann. 1972, Sec. 39-13-5, 39-15-7 and 39-13-9 as amended, the city is authorized to establish a preservation commission to preserve, promote, and develop the city's historical resources and to advise the city on the designation of historic districts, landmarks, and landmark sites and perform such other functions as may be provided by law.

Section 2 - Membership:

All members of the commission are appointed by the city and shall serve at the will and pleasure of the Board and shall serve staggered terms. The commission shall consist of no more than nine (9) members and no fewer than five (5) pursuant to Section 39-13-5, Mississippi Code of 1972, as amended. Member numbers may fluctuate between five (5) and nine (9) members. It is the intent of this ordinance to have members be residents of the City of Magee or Simpson County.

All members of the commission shall serve for terms established by the city and shall be eligible for reappointment. All commission members shall have a demonstrated knowledge of or interest, competence, or expertise in historic preservation. The city shall document a good faith effort to locate residents of the municipality or Simpson County to serve on the commission before appointing individuals who own property within the boundary of the municipality or Simpson County or are in the service of an employer located within the boundary of the municipality or county pursuant to Section 39- 13-5, Mississippi Code of 1972, as amended.

A. The city shall publish at least one notice in a newspaper in its jurisdiction to solicit responses from citizens who are professionals in the related fields of historic preservation and who are interested in serving on the commission. The city may contact known professionals and interested lay persons and invite submission of their qualifications in written resume form.

B. The city shall provide three (3) weeks (15 working days) for responses. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include, but is not limited to, educational and professional background, membership in appropriate preservation organizations, subscriptions to suitable professional publications, volunteer work, attendance at workshops and seminars, and other relevant experience.

C. When the city has collected adequate information concerning the potential appointees to the commission, it shall decide, with the assistance of the State Historic Preservation Office, if

desired, which candidates are qualified for appointment to the commission.

Section 3 - Powers of the Commission:

In order to preserve, promote, and develop the distinctive appearance and the historic resources of Magee and to accomplish the purposes set forth in Miss. Code Ann. 1972, Sec. 39-13-5 as amended, and in this ordinance:

- A. The commission shall conduct or cause to be conducted a continuing study and survey of resources within the City of Magee, including oral histories.
- B. The commission may recommend to the city the adoption of ordinances designating historic districts, landmarks, and landmark sites.
- C. The commission may recommend that the city recognize sub-districts within any historic district, in order that the commission may adopt specific guidelines for the regulation of properties within such a sub-district.
- D. The commission shall review applications proposing construction, alteration, demolition, or relocation of any resource, including appurtenances, buildings, landscapes, objects, or structures. "Resource" shall mean, "Parcels located within historic districts, individual landmarks, and landmark sites, regardless of whether such sites are presently improved or unimproved. Resources can be separate buildings, districts, structures, sites, and objects and related groups thereof."
- E. The commission shall not consider interior arrangements of buildings and structures except that it shall advise the Mississippi Department of Archives and History on questions relating to the interiors of publicly owned resources.
- F. The commission, subject to the requirements of the city, is authorized to apply for, receive, hold, and spend funds from private and public sources, in addition to appropriations that may be made by the city for the purpose of carrying out the provisions of this ordinance.
- G. The commission is authorized to employ such staff or contract with technical experts or other persons as may be required for the performance of its duties and to obtain the equipment, supplies, and other materials necessary for its effective operation, subject to approval by the Board of Aldermen.
- H. The commission, solely in the performance of its official duties and only at reasonable times, may enter upon private land for the examination or survey thereof. No member, employee, or agent of the commission shall enter any private dwelling or structure without the express consent of the owner of record or occupant thereof.
- I. Paint color changes are outside the jurisdiction of the commission.

Section 4 - Rules of Procedure:

To fulfill the purposes of this ordinance and carry out the provisions contained therein:

- A. The commission annually shall elect from its membership a chairman and vice- chairman. It shall select a secretary from its membership or its staff. If neither the chairman nor the vice-

chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.

B. The commission shall develop and adopt rules of procedure which shall govern the conduct of its business, subject to the approval of the City. Such rules of procedure shall be a matter of public record.

C. The commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.

D. The commission shall establish its own regular meeting time; however, the first meeting shall be held within thirty (30) days of the establishment of the commission by the local government and regular meetings shall be scheduled at least once every three (3) months. The chairman or any two (2) members may call a special meeting to consider an urgent matter.

Section 5 - Affiliation:

The Magee Preservation Commission shall be affiliated with the Mississippi Department of Archives and History and shall abide by the guidelines set forth by the Department's laws and guidelines for historic preservation. Nothing in this ordinance shall be construed to prevent the regulation or acquisition of property, improved or unimproved, by the State of Mississippi or any of its political subdivisions, agencies, or instrumentalities or by the United States of America or any of its political subdivisions, agencies, or instrumentalities.

Furthermore, the City of Magee hereby acknowledges that the Mississippi State Antiquities Law (39-7-1 et. seq. of the Mississippi Code of 1972, as amended in 1983), provides for the sensitive treatment of publicly owned property, improved or unimproved, shown to possess certain architectural, historical, or archaeological significance, which are designed by the Board of Trustees of the Mississippi Department of Archives and History as Mississippi Landmarks. Whenever the city proposes to rehabilitate, alter, or enlarge a Mississippi Landmark (or proposes similar actions which would affect a Mississippi Landmark), the city shall submit its plans to the Mississippi Department of Archives and History for review and compliance.

Section 6 – Designation of Landmarks, Landmark Sites, and Historic Districts:

By ordinance, the city may establish landmarks, landmark sites, and historic districts within the area of its jurisdiction. Such landmarks, landmark sites, or historic districts shall be designated following the criteria as set forth herein.

A. The commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the city's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for public inspection. The commission shall work toward providing complete documentation for locally designated historic districts which would include:

1. An inventory of all property within the boundary of the district, with photographs of each building and an evaluation of its significance to the district. Building evaluations are to be used only as a reference or guide and shall not be used as the determining factor for issuing or denying a certificate or appropriateness.

2. An inventory which would be in format consistent with the statewide inventory

format of the Historic Preservation Division of the Mississippi Department of Archives and History (SHPO).

B. The commission shall advise the city on the designation of historic districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designation.

C. A resource or resources may be nominated for designation upon motion of three members of the commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the commission. The commission must reach a decision on whether to recommend a proposed nomination to the city within six months in the case of a historic district and two months in the case of either a landmark or landmark site.

D. If the commission votes to recommend to the city the designation of a proposed resource, it promptly forwards to the city its recommendation, in writing, together with an accompanying file.

E. The commission's recommendations to the city for the designation of a historic district shall be accompanied by:

1. A map of the historic district that clearly delineates the boundaries.
2. A verbal boundary description and justification.
3. A written statement of significance for the proposed historic district.

F. After the nomination of a resource to the city for possible local designation, the resource shall be fully protected by the provisions of this ordinance for a period of six months, as if it were already designated. Any property designated under a previous city ordinance shall remain designated.

G. No historic district or districts shall be designated until the Mississippi Department of Archives and History has been notified by certified letter by the city and invited to make recommendations concerning the proposed district boundaries. The Mississippi Department of Archives and History may comment by letter, telephone, e-mail or in person through designated staff. The city shall provide to the Mississippi Department of Archives and History the dates of the next two (2) public meetings at which action on the designation of such a district might be taken so that the Mississippi Department of Archives and History may comment in a timely manner. Failure of the Mississippi Department of Archives and History to comment by the date of the second such meeting shall relieve the city of any responsibility for awaiting and responding to such analysis, and the city may at any time thereafter take any necessary action to create the proposed historic district.

H. If a proposed ordinance is to designate a landmark or landmark site, it may be presented to the city with a recommendation that it be adopted without submission to the Mississippi Department of Archives and History.

I. The city shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the city/town/county. If a newspaper is not published in the city/town/county, then the notice shall be published in a paper published in the county. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed in the resolution for the public hearing and the last

publication shall be made not more than seven (7) days prior to such date.

J. Within sixty (60) calendar days after the public hearing held in connection herewith, the city/town/county shall adopt the ordinance as proposed, reject it entirely, or adopt the ordinance with modifications.

K. Furthermore, the commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites, and historic districts. An updated list and map shall be maintained by such agencies and made available to the public.

Section 7 - Public Safety Exclusion:

None of the provisions of this Ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the city building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition.

Section 8 – Disqualification of Members by Conflicts of Interests:

Because the city may possess few residents with experience in the individual fields of history, architecture, architectural history, archaeology, urban planning, law, or real estate, and in order not to impair such residents from practicing their trade for hire, members of the commission are allowed to contract their services to an applicant for a certificate of appropriateness, and, when doing so, must expressly disqualify themselves from the commission during all discussions for that application. In such cases, the city shall, upon the request of the chairman of the commission or the vice-chairman in his stead, appoint a substitute member who is qualified in the same field as the disqualified member, and who will serve for that particular case only. If no qualified resident of the city is able to substitute for the disqualified member, the city may appoint, in this case only, a qualified substitute who is a resident of Mississippi but not a resident City of Magee.

If any member of the commission must be disqualified due to a conflict of interest on a regular and continuing basis, the chairman or the vice-chairman, in his stead, shall encourage the member to resign his commission seat. Failing this resignation, and, if the commission member continues to enter into conflict-of-interest situations with the commission, the chairman or vice-chairman of the commission shall encourage the city to replace the member. Likewise, any member of the commission who has an interest in the property in question or in property within three hundred feet of such a property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy, or personal interest in a matter to be considered by the commission shall be disqualified from participating in the consideration of any request for a certificate of appropriateness involving such a property. In such cases, a qualified substitute shall be appointed as provided above.

Section 9 - Severability:

The requirements and provisions of this ordinance are separable. If any article, section, paragraph, sentence, or portion thereof, be declared by any court of competent jurisdiction to be void, invalid, or inoperative, the decision of the court shall not affect the validity or applicability of the ordinance as a whole or of any part thereof other than the part held void, invalid, or otherwise inoperative.

Section 10 - Conflicts:

All ordinances and parts of ordinances in conflict herewith are hereby repealed. Likewise, all ordinances and part of ordinances in conflict with the Mississippi Antiquities Act (39-7-1 et. seq. of the Mississippi Code of 1972, as amended in 1983) are hereby repealed.

Section 11 - Publication and Effective Date:

That the City Clerk shall cause this Ordinance to be published at least one (1) time in the *Magee Courier*, a newspaper authorized by law to publish legal notices in the City of Magee. This ordinance shall become effective one month after its passage.

THE ABOVE AND FOREGOING ORDINANCE was first reduced to writing and read, considered and approved, section by section, and approved as a whole in its entirety at the regular public meeting of the Mayor and Board of Aldermen held on this the 18th day of July, 2023, at the City Hall in the City of Magee, Mississippi, the regular meeting place of the mayor and Board of Aldermen of said City, and the vote on its final passage was taken by “yeas” and “nays.”

A motion to adopt the foregoing Ordinance was made by Alderman Honea and said motion was duly seconded by Alderman Brown. Whereupon, the motion was put before the Board of Aldermen by Mayor Dale Berry, and upon roll call, voted as follows:

	YEA	NAY
Mark Grubbs	X	_____
Sammie Tebo	X	_____
Patrick Brown	X	_____
Sue Honea	X	_____

The Ordinance having received the affirmative vote of a majority of the members of the Board of Aldermen of the City of Magee, Mississippi, Mayor Dale Berry declared said Ordinance to have been fully adopted and to be in full force and effect according to its provisions.

SO ORDERED, this the 18th day of July, 2023.


Dale Berry, Mayor

Attest:

Jon Styron, City Clerk